AT&T

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Paul Margie
Legal Adviser to Commissioner Michael Copps
Federal Communications Commission
445 12th Street, SW,
Washington, DC 20554

Re: AT&T Emergency Petition for Settlements Stop Payment Order, IB Docket No. 03-38.

Dear Mr. Margie:

This letter responds to the letter dated March 3, 2003 from the Philippine Long Distance Telephone Company ("PLDT") contending that it may legitimately increase termination rates to U.S. carriers by 50 percent -- from 8 cents to 12 cents -- because the increased rate would still be "well under world trends, by any fair measure." (PLDT Letter at 2.)

PLDT contends that a 12-cent termination rate in the Philippines would be lower than AT&T's termination rates in any other country classified as "lower middle income" under the *Benchmarks Order*. However, PLDT fails to distinguish AT&T's rates under 3 cents to Australia, Malaysia, New Zealand and Singapore, and under 4 cents to Hong Kong, Japan, South Korea and Taiwan, all in the Asia-Pacific region, on the grounds that these countries were placed in different development categories under the *Benchmarks Order*. Because of improved technology, termination costs in all countries have been greatly reduced since the benchmarks were established in 1997 based on retail tariff data that is now 7-8 years out of date.

In any event, AT&T has termination rates *lower than PLDT's former 8-cent rate* in a number of countries classified at or below the "lower middle income" level under the *Benchmarks Order*. AT&T has termination rates below 8 cents with the Dominican Republic, Indonesia, Poland, Russia, the Slovak Republic and Venezuela, all of which are classified as "lower middle income" countries under the *Benchmarks Order*. Additionally, AT&T terminates substantial traffic volumes at less than 8 cents in China, which a "low income" country. AT&T also has termination rates under 8 cents with Malawi, another "low income" country, and with Zambia, which is in the very lowest development category ("teledensity less than one").

Even if the facts were as PLDT contends, and its increased rate was below those of all other lower middle income countries, which it is not, there would be no justification for the 50 percent increase PLDT seeks to obtain through its continuing illegal whipsaw of AT&T. The 8-cent rate was freely negotiated by AT&T and PLDT in July 2000 and has been reconfirmed in no fewer than *nine* rate agreements between the parties since then. Notably absent from PLDT's letter and its other filings in this proceeding is any showing that this rate increase is now necessary to meet increased termination costs for U.S. traffic -- the only justification recognized by Commission rules. (*Regulation of International Accounting Rates*, 6 FCC Rcd. 3552, ¶¶ 1-3, 16 & n. 30 (1991) (encouraging the reduction of foreign termination rates to *cost-based* levels and prohibiting all non-cost-based increases).)

Both U.S. consumers and the Philippine carriers have greatly benefited from the lower termination rates on this route that have resulted from the Commission's benchmarks and international settlements policies. As shown by AT&T's filings in this proceeding, settlements cost reductions have brought even lower prices and a five-fold increase in U.S.-outbound traffic volumes to the Philippines that has paid Philippine carriers over $1 billion in net settlements payments since 1996. The Commission should take immediate action to stop the ongoing whipsaw of AT&T by PLDT and the other Philippine carriers in retaliation against AT&T's refusal to pay higher rates that would merely provide these carriers with increased above-cost subsidies from U.S. consumers.

Respectfully submitted,

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